

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SPARK THERAPEUTICS, INC.,

Plaintiff,

V.

BLUEBIRD BIO, INC.,

Defendant.

[illegible]

C.A. No. 21-00705-WCB

**PLAINTIFF’S MOTION TO SUPPLEMENT THE RECORD
IN RESPONSE TO DEFENDANT’S EXPERT SURREPLY REPORT**

Pursuant to Paragraph 6 of the Procedural Order D.I. 47 of this Court, Spark Therapeutics, Inc. (“Spark”) hereby moves to object to the sufficiency and weight of sur-reply expert report of Dr. Larry Chiagouris (D.I. 45) submitted by defendant bluebird bio (“defendant” or “bluebird bio”), and to supplement the record to admit additional public domain evidence that (i) provides context or corrects allegations made by the sur-reply report regarding the distinctiveness of Spark, and (ii) supplements plaintiff’s use of the Spark marks¹ in Delaware.

A. The Three Charts Provided in the Sur-Reply Expert Report Lack Important Information and Context Necessary to Evaluate the Distinctiveness of Spark's Marks.

1. Dr. Chiagouris provides three charts in his sur-reply report regarding third-party usage of Spark marks, each purporting to show that Spark’s common law marks are not distinctive, but rather “part of a large crowd of similar companies using the same words or variation on the word Spark.” D.I. 45 ¶ 15, 16, 17. These charts are misleading and lack the

¹ “Spark marks,” as it is used throughout this motion, refers to the four marks that Spark identifies in its More Definite Statement (D.I. 41), at 1-2.

information necessary to properly evaluate Dr. Chiagouris's comments.² To provide necessary context, Spark moves to supplement the record as follows:

- a. In a chart titled "Delaware Corporate Names" (D.I. 45, ¶ 15), Dr. Chiagouris provides a list of "Delaware corporate names employing some version of Spark and registered by a healthcare, educational and life science company" to show that the Spark marks are not distinctive. D.I. 45, ¶ 15. Spark moves to introduce evidence (Exhibits 1 through 7, attached hereto) showing that, of the fourteen corporate names identified in this chart, two appear to belong to the plaintiff, five are not associated with active corporations, and others are companies where plaintiff, after a reasonable effort, was not able to find examples of activity. For the convenience of the Court, we have created a demonstrative summarizing this information, which we have included and seek to admit as Exhibit 1.
- b. In a chart titled "Website Names" (D.I. 45, ¶ 16), Dr. Chiagouris provides to a list of "presently operating business websites employing some version of the word Spark and owned by a healthcare, educational and life science company" to

² Spark objects not just to the weight of Bluebird's expert sur-reply report, but also to its admissibility, and particularly with regard to Section A of the sur-reply report. In Section A, paragraphs 6 and 12, of his sur-reply report, Dr. Chiagouris offers an improper legal opinion on the definition of what "[a] common law trademark" is and requires, and whether Spark made a showing sufficient to establish common-law legal rights. *See, e.g., Berkeley Inv. Group, Ltd. v. Colkitt*, 455 F.3d 195, 217 (3d Cir. 2006) (finding it improper for an expert to opine as to "what [is] required under the law, or whether the defendant complied with the Act.") In the remainder of his Section A, at paragraphs 8-12, without applying any specialized knowledge or methodologies, Dr. Chiagouris merely, and improperly, identifies evidence that he says is not in the record, which is not proper expert testimony, but attorney argument supporting Bluebird's litigation position. *See, e.g., XpertUniverse, Inc. v Cisco Sys.*, No. 09-157-RGA, 2013 U.S. Dist. LEXIS 31327, at *12 ("To the extent [the expert's] opinions constitute unfiltered regurgitation of what other people told him . . . , the 'expert' testimony adds nothing and is therefore unhelpful . . .").

support his conclusion that Spark's common law marks are not distinctive in Delaware. D.I. 45, ¶ 16. Dr. Chiagouris provides no evidence connecting these companies, nor their websites, to Delaware specifically. Spark moves to introduce and admit Exhibit 8 (attached hereto) into evidence, to point the Court to additional evidence, already on the record, provide that three of the nine identified websites belong to the plaintiff, and the six others do not relate to gene therapy.

- c. In a chart titled "Common Law Trademark Names" (D.I. 45, ¶ 17), Dr. Chiagouris provides to a list of "US trademark applications and registrations employing some version of the work Spark and directly related to the fields of healthcare, educational and life sciences" to prove that the Spark marks are not distinctive in Delaware. D.I. 45, ¶ 17. Spark moves to introduce and admit evidence (Exhibits 9 through 12, attached hereto) showing that, of the nine applications identified, Spark owns one, has opposed four others, and the remaining applications appear not related to gene therapies or related educational services. For the convenience of the court, we have created a chart summarizing this information, which we have included and seek to admit as Exhibit 9.

B. Record Evidence Relating to Hematologists in Delaware and to Other Uses of the Spark Marks in Delaware.

2. The sur-reply expert report does not respond to Spark's position that it has established national and Delaware common law trademark rights in the Spark marks because, *inter alia*, hematologists generally are familiar with the Spark marks used in connection with gene therapy. Spark has established that it is a well-known brand among hematologists generally. Levy Decl. (D.I. 20), at ¶¶ 8-10, Philip Decl (D.I. 21), at ¶¶ 7-26; Levy Second Decl. (D.I. 33), at ¶¶ 2-4; *see also* Gallagher Decl. (D.I. 34), at Exhibit Q; McDonald Opening Expert Report, at ¶

24. Further, it has shown that there are hematologists in Delaware, Gallagher Decl. (D.I. 34), Exhibit Q, including evidence of hematologists in Delaware that treat patients with both Sickle Cell Disease and Hemophilia. Gallagher Decl. (D.I. 34), Exhibit Q, at p. 2-9.

3. However, pursuant to paragraph 6 of Procedural Order D.I. 47, Spark moves to supplement the record to include additional examples of use of the Spark marks in Delaware, and additional examples of hematologists who practice in Delaware. These additional exhibits are attached hereto as Exhibits 13 through 21.

Exhibit 13	First Gene Therapy for Inherited Disease Gets FDA Approval (Delaware Public Media)
Exhibit 14	DelawareBio BioBuzz Newsletter (February 2021)
Exhibit 15	Delaware Bio May 2021 BioBreakfast-- Innovating Bioscience to Improve Patient Lives
Exhibit 16	LUXTURNA test site, retina specialists, IRD - EPS is a Screening Site
Exhibit 17	DelawareBio Member Directory
Exhibit 18	Retina Specialists in Delaware (19803) using Luxturna
Exhibit 19	Nemours Children's Health—Find a Doctor (Hematology)
Exhibit 20	ChristianaCare—Find a Provider (Hematology)
Exhibit 21	US News Health—Delaware Hematologists

Conclusion

For the foregoing reasons, Spark respectfully requests that this Court supplement the record to include the evidence detailed herein and attached hereto as Exhibits 1 through 21.

Dated: January 12, 2022

/s/ Beth Moskow-Schnoll
 Beth Moskow-Schnoll (No. 2900)
 BALLARD SPAHR LLP
 919 N. Market St, 11th Floor
 Wilmington, DE 19801-3034
 Tel.: 302-252-4447
 Email: moskowb@ballardspahr.com

Robert R. Baron, Jr. (admitted *pro hac vice*)
 Thomas J. Gallagher (admitted *pro hac vice*)
 BALLARD SPAHR LLP
 1735 Market Street, 51st Floor
 Philadelphia, PA 19103

Tel.: 215-665-8500
Email: baron@ballardspahr.com
gallagher@ballardspahr.com

Susan A. Smith (admitted *pro hac vice*)
BALLARD SPAHR LLP
1909 K Street, NW, 12th Floor
Washington, DC 20006-1157
Tel.: 202-661-2247
Email: smiths@ballardspahr.com

Maxwell C. Preston (admitted *pro hac vice*)
BALLARD SPAHR LLP
1675 Broadway, 19th Floor
New York, NY 10019-5820
Tel.: 646-346-8004
Email: prestonm@ballardspahr.com

Attorneys for Plaintiff Spark Therapeutics, Inc.

EXHIBIT 1

Exhibit 1

Delaware Corporate Name listed by Chiagouris (D.I. 45, p. 6)	Context
SparkDNA Inc.	<ul style="list-style-type: none"> Entity dissolved effective August 11, 2014. (Exhibit 2)
Spark Therapeutics	<ul style="list-style-type: none"> This appears to be a reference to plaintiff.
Spark Biotech, Inc.	<ul style="list-style-type: none"> Entity void as of March 1, 2006. (Exhibit 3)
Spark Health Inc.	<ul style="list-style-type: none"> Not related to gene therapy—provides “concierge-level support to help you take full advantage of your Medicare benefits and achieve your health goals” (Exhibit 4)
SparkLIX Bio IT Corp.	<ul style="list-style-type: none"> Entity void as of March 1, 2011. (Exhibit 5)
Sparkle Eye Health, Inc.	<ul style="list-style-type: none"> No use found.
SparkLife, LLC	<ul style="list-style-type: none"> No use found.
Spark Bio, Inc.	<ul style="list-style-type: none"> No use found.
Spark Healthtech, Inc.	<ul style="list-style-type: none"> No use found.
Spark Medical LLC	<ul style="list-style-type: none"> No use found.
Spark Education LP	<ul style="list-style-type: none"> Entity voluntarily cancelled effective December 31, 2014. (Exhibit 6)
SparkinLife, Inc.	<ul style="list-style-type: none"> Entity dissolved effective July 28, 2011. (Exhibit 7)
Sparkmedical.com	<ul style="list-style-type: none"> This appears to be a reference to plaintiff.
Spark	<ul style="list-style-type: none"> Dr. Chiagouris has not identified any third party with “Spark” as its Delaware corporate name.

EXHIBIT 2

Department of State: Division of Corporations

[Allowable Characters](#)[HOME](#)[View Search Results](#)

Entity Details

[File Number:](#) **5353025** [Incorporation Date](#) **6/18/2013**
[/ Formation Date:](#) (mm/dd/yyyy)

[Entity Name:](#) **SPARKDNA INC**

[Entity Kind:](#) **Corporation** [Entity Type:](#) **General**

[Residency:](#) **Domestic** State: **DELAWARE**

[Status:](#) **Dissolved** Status Date: **8/11/2014**

TAX INFORMATION

[Last Annual Report Filed:](#) **2014** Tax Due: **\$ 0**

[Annual Tax Assessment:](#) **\$ 350** [Total Authorized Shares:](#) **10000000**

REGISTERED AGENT INFORMATION

Name: **HARVARD BUSINESS SERVICES, INC.**

Address: **16192 COASTAL HWY**

City: **LEWES** County: **Sussex**

State: **DE** Postal Code: **19958**

Phone: **302-645-7400**

FILING HISTORY (Last 5 Filings)

Seq	Description	No. of pages	Filing Date (mm/dd/yyyy)	Filing Time	Effective Date (mm/dd/yyyy)
1	Dissolution - Long Form	1	8/11/2014	12:40 PM	8/11/2014
2	Stock Corporation	1	6/18/2013	2:17 PM	6/18/2013

[Back to Entity Search](#)[Email Status](#)

For help on a particular field click on the Field Tag to take you to the help area.

[site map](#) | [privacy](#) | [about this site](#) | [contact us](#) | [translate](#) | [delaware.gov](#)

EXHIBIT 3

Department of State: Division of Corporations

[Allowable Characters](#)[HOME](#)[View Search Results](#)

Entity Details

[File Number:](#) **3884699** [Incorporation Date / Formation Date:](#) **11/19/2004** (mm/dd/yyyy)

[Entity Name:](#) **SPARK BIOTECH, INC.**

[Entity Kind:](#) **Corporation** [Entity Type:](#) **General**

[Residency:](#) **Domestic** State: **DELAWARE**

[Status:](#) **Void, AR's or Tax Delinquent** Status Date: **3/1/2006**

TAX INFORMATION

[Last Annual Report Filed:](#) **2004** Tax Due: \$ **510495**

[Annual Tax Assessment:](#) \$ **510495** [Total Authorized Shares:](#) **20000000**

REGISTERED AGENT INFORMATION

Name: **CORPORATION SERVICE COMPANY**

Address: **251 LITTLE FALLS DRIVE**

City: **WILMINGTON** County: **New Castle**

State: **DE** Postal Code: **19808**

Phone: **302-636-5401**

FILING HISTORY (Last 5 Filings)

Seq	Description	No. of pages	Filing Date (mm/dd/yyyy)	Filing Time	Effective Date (mm/dd/yyyy)
1	Stock Corporation	2	11/19/2004	9:55 PM	11/19/2004

[Back to Entity Search](#)[Email Status](#)

For help on a particular field click on the Field Tag to take you to the help area.

[site map](#) | [privacy](#) | [about this site](#) | [contact us](#) | [translate](#) | [delaware.gov](#)

EXHIBIT 4



About
Spark

FAQ

Agents

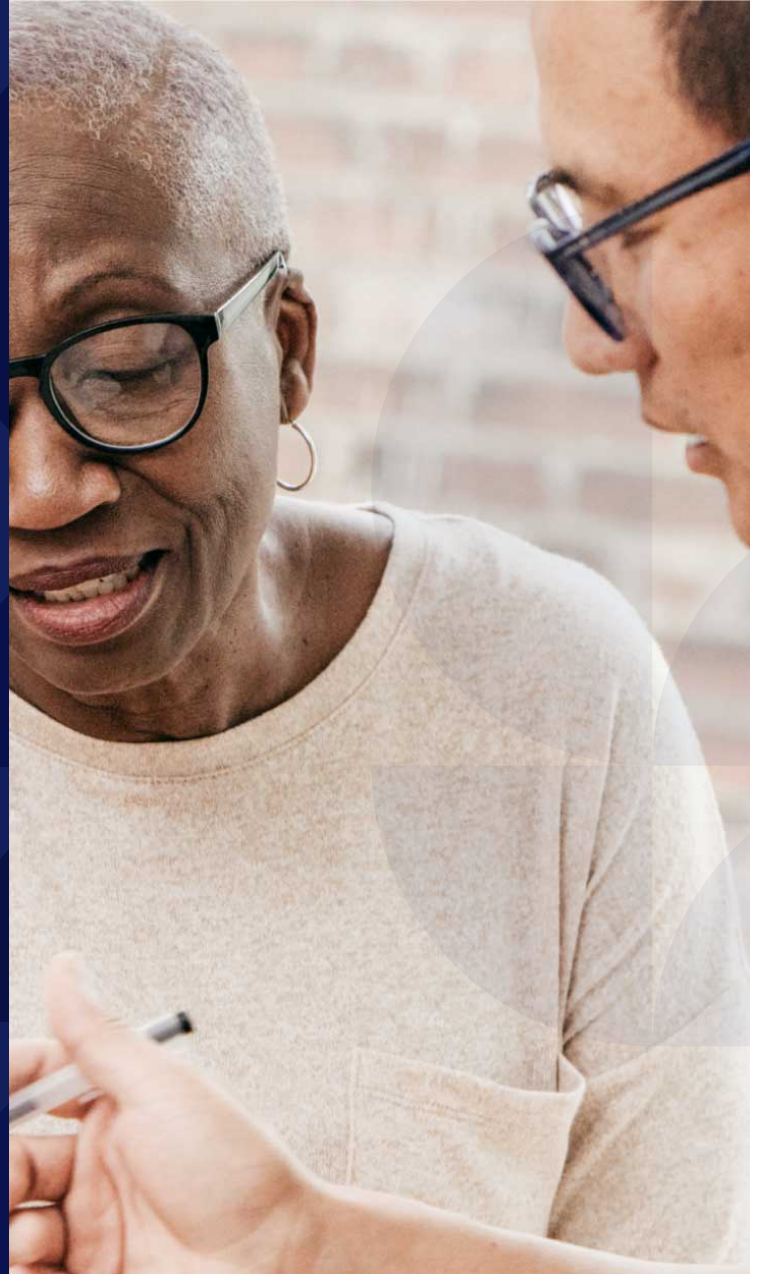
Blog

Call
now
(855)
949-
2097
TTY
711

Make the most of your Medicare

We partner with local agents to help you monitor your coverage, maximize your benefits, and resolve insurance issues. See if your agent offers a Spark Membership.

[Get in touch](#)



A better way to navigate your Medicare benefits, **for free.**

We offer concierge-level support to help you take full advantage of your Medicare benefits and achieve your health goals.



We're comprehensive

As an independent agency, we search every plan option available to you.



We're experts

We've got decades of experience in the Medicare industry serving thousands of clients like you.



We're local

We're available by phone and in-person and have the local context to understand your specific needs.



We put service first

We're a relationship-first agency. Our local teams get to know you by name as they serve you over the long haul.

Spark

How your Spark Membership works

Our team works with your local insurance agent to ensure you're taking full advantage of the benefits you're entitled to.

1. Monitor your coverage

Have peace of mind knowing Spark is proactively making sure you're always on the right healthcare plan.

The average beneficiary has over 30 Medicare options to choose from. We proactively review your options as your needs and the market

changes.
Spark 

2. Save time and money

Stop waiting hours to speak with your insurance company. We'll do it for you.

We help you understand your medical bills, manage payment disputes, and even enroll you in cost-saving programs you may be eligible for.

3. Maximize your benefits

Spark  Take full advantage of your plan benefits. We'll explain

and even help set up all your supplemental benefits — whether it's calling a ride, receiving a pharmacy credit, or more.

Thousands of clients trust us. Ask your agent about Spark.

Christina Holland

“I got a bill in the mail I didn't understand. I called Spark, they explained it was a mistake, and got the issue resolved with my insurance company.”

Spark 

Major carriers in one place

We offer you the best products on the market, making sure you get the plan that's right for you.

[Get in touch](#)



contact@sparkadvisors.com

Not affiliated with the U.S. government or federal
Medicare program

© 2021 Spark Health Inc. All Rights Reserved

Company

[We're Hiring](#)

[Privacy Policy](#)

[Terms & Conditions](#)

[Contact](#)

Spark Advisors

[About Us](#)

[FAQ](#)

[Blog](#)

[Agent Experience](#)

EXHIBIT 5

Department of State: Division of Corporations

[Allowable Characters](#)

HOME

[View Search Results](#)

Entity Details

[File Number:](#) **4731557** [Incorporation Date / Formation Date:](#) **9/16/2009** (mm/dd/yyyy)

[Entity Name:](#) **SPARKLIX BIO IT CORP.**

[Entity Kind:](#) **Corporation** [Entity Type:](#) **General**

[Residency:](#) **Domestic** State: **DELAWARE**

[Status:](#) **Void, AR's or Tax Delinquent** Status Date: **3/1/2011**

TAX INFORMATION

[Last Annual Report Filed:](#) **0** Tax Due: **\$ 525**

[Annual Tax Assessment:](#) **\$ 525** [Total Authorized Shares:](#) **100**

REGISTERED AGENT INFORMATION

Name: **VCORP SERVICES, LLC (USE #9647341)**

Address: **1013 CENTRE ROAD SUITE 403-B**

City: **WILMINGTON** County: **New Castle**

State: **DE** Postal Code: **19805**

Phone:

FILING HISTORY (Last 5 Filings)

Seq	Description	No. of pages	Filing Date (mm/dd/yyyy)	Filing Time	Effective Date (mm/dd/yyyy)
1	Stock Corporation	2	9/16/2009	6:24 PM	9/16/2009

[Back to Entity Search](#)

[Email Status](#)

For help on a particular field click on the Field Tag to take you to the help area.

[site map](#) | [privacy](#) | [about this site](#) | [contact us](#) | [translate](#) | [delaware.gov](#)

EXHIBIT 6

Department of State: Division of Corporations

[Allowable Characters](#)[HOME](#)[View Search Results](#)

Entity Details

[File Number:](#) **5193495** [Incorporation Date / Formation Date:](#) **8/2/2012** (mm/dd/yyyy)

[Entity Name:](#) **SPARK EDUCATION LP**

[Entity Kind:](#) **Limited Partnership** [Entity Type:](#) **General**

[Residency:](#) **Domestic** State: **DELAWARE**

[Status:](#) **Voluntarily Cancelled** Status Date: **12/31/2014**

TAX INFORMATION

[Last Annual Report Filed:](#) **0** Tax Due: \$ **0**

[Annual Tax Assessment:](#) **\$ 300** [Total Authorized Shares:](#)

REGISTERED AGENT INFORMATION

Name: **NATIONAL REGISTERED AGENTS, INC.**

Address: **1209 ORANGE STREET**

City: **WILMINGTON** County: **New Castle**

State: **DE** Postal Code: **19801**

Phone: **302-658-7581**

FILING HISTORY (Last 5 Filings)

Seq	Description	No. of pages	Filing Date (mm/dd/yyyy)	Filing Time	Effective Date (mm/dd/yyyy)
1	Cancellation; Trust,GP,LP,LLC,RSE	1	12/29/2014	9:30 AM	12/31/2014
2	LP	1	8/2/2012	3:01 PM	8/2/2012

[Back to Entity Search](#)[Email Status](#)

For help on a particular field click on the Field Tag to take you to the help area.

[site map](#) | [privacy](#) | [about this site](#) | [contact us](#) | [translate](#) | [delaware.gov](#)

EXHIBIT 7

Department of State: Division of Corporations

[Allowable Characters](#)

HOME

[View Search Results](#)

Entity Details

[File Number:](#) **4529954** [Incorporation Date / Formation Date:](#) **4/7/2008** (mm/dd/yyyy)

[Entity Name:](#) **SPARKINLIFE, INC.**

[Entity Kind:](#) **Corporation** [Entity Type:](#) **General**

[Residency:](#) **Domestic** State: **DELAWARE**

[Status:](#) **Dissolved** Status Date: **7/28/2011**

TAX INFORMATION

[Last Annual Report Filed:](#) **2011** Tax Due: **\$ 0**

[Annual Tax Assessment:](#) **\$ 75** [Total Authorized Shares:](#) **1500**

REGISTERED AGENT INFORMATION

Name: **THE COMPANY CORPORATION**

Address: **251 LITTLE FALLS DRIVE**

City: **WILMINGTON** County: **New Castle**

State: **DE** Postal Code: **19808**

Phone: **302-636-5440**

FILING HISTORY (Last 5 Filings)

Seq	Description	No. of pages	Filing Date (mm/dd/yyyy)	Filing Time	Effective Date (mm/dd/yyyy)
1	Dissolution - Short Form	1	7/28/2011	11:00 AM	7/28/2011
2	Stock Corporation	1	4/7/2008	1:07 PM	4/7/2008

[Back to Entity Search](#)

[Email Status](#)

For help on a particular field click on the Field Tag to take you to the help area.

[site map](#) | [privacy](#) | [about this site](#) | [contact us](#) | [translate](#) | [delaware.gov](#)

EXHIBIT 8

Exhibit 8








Website Name identified by Chiagouris (D.I. 45, p. 7)	Context
	<ul style="list-style-type: none"> Not related to gene therapy—charity devoted to Autism research (D.I. 29, p. 62)
	<ul style="list-style-type: none"> Not related to gene therapy—Stanford University research mentorship and funding program (D.I. 29, p. 63-64)
	<ul style="list-style-type: none"> Not related to gene therapy—“Cerner Revenue Cycle experts” surfacing data to help make business decisions and providing automation tools (D.I. 29, p. 65-66)
	<ul style="list-style-type: none"> This is plaintiff’s mark (D.I. 41, p. 1)
	<ul style="list-style-type: none"> Not related to gene therapy—conducts case studies, mainly on cystic fibrosis, bronchiectasis, and GI health (D.I. 29, p. 65-66)
<p>SPARK</p>	<ul style="list-style-type: none"> This is plaintiff’s mark (D.I. 41, p. 1)
	<ul style="list-style-type: none"> Not related to gene therapy—medical devices for opiod withdrawal (D.I. 29, p. 68)
	<ul style="list-style-type: none"> Not related to gene therapy—neighborhood pediatric center in Mattapan, Massachusetts (D.I. 29, p. 65)
<p>SPARKMEDICAL.COM</p>	<ul style="list-style-type: none"> This is plaintiff’s mark (D.I. 41, p. 2)

EXHIBIT 9

Exhibit 9










Mark listed by identified by Chiagouris (D.I. 45, p. 7)	Owner	Context
 ECF 29, at 75.	The Simons Foundation	<ul style="list-style-type: none"> Not related to gene therapy—charity devoted to Autism research (D.I. 29, p. 62)
 ECF 29, at 77.	Allergan, Inc.	<ul style="list-style-type: none"> Not related to gene therapy—this application is limited to “medical aesthetics” (D.I. 29, p. 77)
 ECF 29, at 81.	Memorial Health Services	<ul style="list-style-type: none"> Spark opposed this application and they excluded gene therapy from the application (Exhibit 10)
 ECF 29, at 94.	The Simons Foundation	<ul style="list-style-type: none"> Not related to gene therapy—charity devoted to Autism research (D.I. 29, p. 62)
 ECF 29, at 95.	Spark Therapeutics, Inc.	<ul style="list-style-type: none"> This is plaintiff’s mark (D.I. 29, p. 95)
 ECF 7, at 103.	Sun Pharma	<ul style="list-style-type: none"> Spark opposed this application (Exhibit 11)
 ECF 29, at 107.	Sun Pharma	<ul style="list-style-type: none"> Spark opposed this application (Exhibit 11)
 ECF 19, at 117.	Arcellx, Inc.	<ul style="list-style-type: none"> This application has been suspended due to a potential likelihood of confusion with Spark’s application for SPARK THERAPEUTICS logo (and others) (Exhibit 12)
 ECF 29, at 113.	Glaxo Group	<ul style="list-style-type: none"> Not related to gene therapy—the application is limited to “providing information relating to medical healthcare plans” (D.I. 29, at p. 113)

EXHIBIT 10



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#)

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Jan 12 03:17:22 EST 2022

[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSE DICT](#)
[SEARCH OG](#)
[BOTTOM](#)
[HELP](#)
[PREV LIST](#)
[CURR LIST](#)
[NEXT LIST](#)

[FIRST DOC](#)
[PREV DOC](#)
[NEXT DOC](#)
[LAST DOC](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

[Start](#) List At: OR [Jump](#) to record: **Record 2 out of 89**

[TSDR](#)
[ASSIGN Status](#)
[TTAB Status](#)
 (Use the "Back" button of the Internet Browser to return to TESS)

SPARK

Word Mark SPARK

Goods and Services IC 044. US 100 101. G & S: Healthcare, namely, providing a referral service for personalized healthcare programs wherein patients are matched with a nurse care coordinator to discuss health care needs, the foregoing excluding gene therapy. FIRST USE: 20170700. FIRST USE IN COMMERCE: 20170700

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 88644801

Filing Date October 7, 2019

Current Basis 1A

Original Filing Basis 1A

Published for Opposition February 18, 2020

Owner (APPLICANT) **Memorial Health Services** CORPORATION CALIFORNIA 17360 Brookhurst Street, First Floor Fountain Valley CALIFORNIA 92708

Attorney of Record TAWNYA WOJCIECHOWSKI

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead LIVE
Indicator

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE DICT	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST	NEXT LIST
FIRST DOC	PREV DOC	NEXT DOC	LAST DOC							

[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

EXHIBIT 11



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)



TTABVue. Trademark Trial and Appeal Board Inquiry System

v2.2

Opposition

Number: 91256313

Filing Date: 06/10/2020

Status: Pending

Status Date: 06/11/2020

General Contact Number: 571-272-8500

Interlocutory Attorney: [JENNIFER ELGIN](#)

Paralegal Name: [NICOLE M THIER](#)

Defendant

Name: [Sun Pharma Advanced Research Company Ltd.](#)

Correspondence: [NANCY A DEL PIZZO](#)

RIVKIN RADLER LLP

25 MAIN STREET, SUITE 501, COURT PLAZA NORTH

HACKENSACK, NJ 07601

UNITED STATES

nancy.delpizzo@rivkin.com, indira.sui@rivkin.com, trademark@rivkin.com

Phone: 201-287-2460

Serial #: [86676794](#)

[Application File](#)

[Assignment](#)

Application Status: Opposition Pending

Mark: SPARC

Serial #: [86676795](#)

[Application File](#)

[Assignment](#)

Application Status: Opposition Pending

Mark: SPARC RESEARCH

Serial #: [88444357](#)

[Application File](#)

[Assignment](#)

Application Status: Opposition Pending

Mark: SPARC

Plaintiff

Name: [Spark Therapeutics, Inc.](#)

Correspondence: [ROBERT R BARON JR](#)

BALLARD SPAHR LLP

1735 MARKET STREET, 51ST FLOOR

PHILADELPHIA, PA 19103-7599

UNITED STATES

baron@ballardspahr.com, shorem@ballardspahr.com,

tmdocketing@ballardspahr.com,

watkinsjh@ballardspahr.com, smiths@ballardspahr.com,

prestonm@ballardspahr.com

Phone: 215-864-8335

Serial #: [86068955](#)

[Application File](#)

[Assignment](#)

Registration [5068997](#)
#:

Application Status: Registered

Mark: SPARK

Serial #: [87312892](#) [Application File](#) [Assignment](#)
Application Status: Report Completed Suspension Check - Case Still
 Suspended
Mark: SPARK THERAPEUTICS

Serial #: [87312895](#) [Application File](#) [Assignment](#)
Application Status: Report Completed Suspension Check - Case Still
 Suspended
Mark: SPARK THERAPEUTICS

Prosecution History

#	Date	History Text	Due Date
16	08/11/2021	CONSOLIDATED; PARENT IS 91250079	
15	08/10/2021	P MOT TO CONSOLIDATE	
14	07/21/2021	P MOT FOR EXT W/ CONSENT	
13	07/19/2021	P CHANGE OF CORRESP ADDRESS	
12	07/06/2021	EXTENSION OF TIME GRANTED	
11	06/30/2021	P MOT FOR EXT W/ CONSENT	
10	05/10/2021	EXTENSION OF TIME GRANTED	
9	05/07/2021	P MOT FOR EXT W/ CONSENT	
8	02/24/2021	EXTENSION OF TIME GRANTED	
7	02/24/2021	P MOT FOR EXT W/ CONSENT	
6	01/08/2021	EXTENSION OF TIME GRANTED	
5	11/25/2020	STIP FOR EXT	
4	07/21/2020	ANSWER	
3	06/11/2020	INSTITUTED	
2	06/11/2020	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	07/21/2020
1	06/10/2020	FILED AND FEE	

Results as of 01/12/2022 12:45 PM [Back to search results](#) **Search:**

EXHIBIT 12

To: Arcellx, Inc. (nixonptomail@nixonvan.com)

Subject: U.S. Trademark Application Serial No. 88861317 - SPARX PROTEIN - 6666-0054

Sent: June 25, 2020 06:34:30 PM

Sent As: ecom130@uspto.gov

Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)
[Attachment - 4](#)
[Attachment - 5](#)
[Attachment - 6](#)
[Attachment - 7](#)
[Attachment - 8](#)
[Attachment - 9](#)
[Attachment - 10](#)
[Attachment - 11](#)
[Attachment - 12](#)
[Attachment - 13](#)
[Attachment - 14](#)
[Attachment - 15](#)
[Attachment - 16](#)
[Attachment - 17](#)
[Attachment - 18](#)
[Attachment - 19](#)
[Attachment - 20](#)
[Attachment - 21](#)
[Attachment - 22](#)
[Attachment - 23](#)
[Attachment - 24](#)
[Attachment - 25](#)
[Attachment - 26](#)
[Attachment - 27](#)
[Attachment - 28](#)
[Attachment - 29](#)
[Attachment - 30](#)
[Attachment - 31](#)
[Attachment - 32](#)
[Attachment - 33](#)
[Attachment - 34](#)
[Attachment - 35](#)
[Attachment - 36](#)
[Attachment - 37](#)
[Attachment - 38](#)
[Attachment - 39](#)
[Attachment - 40](#)
[Attachment - 41](#)
[Attachment - 42](#)
[Attachment - 43](#)
[Attachment - 44](#)

[Attachment - 45](#)
[Attachment - 46](#)
[Attachment - 47](#)
[Attachment - 48](#)
[Attachment - 49](#)
[Attachment - 50](#)
[Attachment - 51](#)
[Attachment - 52](#)
[Attachment - 53](#)
[Attachment - 54](#)
[Attachment - 55](#)
[Attachment - 56](#)
[Attachment - 57](#)
[Attachment - 58](#)
[Attachment - 59](#)
[Attachment - 60](#)
[Attachment - 61](#)
[Attachment - 62](#)
[Attachment - 63](#)
[Attachment - 64](#)
[Attachment - 65](#)

United States Patent and Trademark Office (USPTO)
Office Action (Official Letter) About Applicant's Trademark Application

U.S. Application Serial No.
88861317

Mark: SPARX PROTEIN

Correspondence Address:
DUANE M. BYERS
NIXON & VANDERHYE
PC
901 N. GLEBE ROAD,
11TH FLOOR
ARLINGTON, VA 22203

Applicant: Arcellx, Inc.

Reference/Docket No.
6666-0054

**Correspondence Email
Address:**

nixonptomail@nixonvan.com

NONFINAL OFFICE ACTION

The USPTO must receive applicant's response to this letter within six months of the issue date below or the application will be [abandoned](#). Respond using the Trademark Electronic Application System (TEAS). A link to the appropriate TEAS response form appears at the end of this Office action.

Issue date: **June 25, 2020**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

SUMMARY OF ISSUES:

- Section 2(d) Refusal – Likelihood of Confusion
- Prior Pending Application
- Disclaimer Requirement
- Identification of Goods

SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION

Applicant has applied for SPARX PROTEIN (SN: 88861317) for “Biological preparations for the treatment of cancer using polypeptides and genetically engineered cells; pharmaceutical preparations for targeting tissues based on select tissue markers and ligands; pharmaceutical preparations for the purpose of binding ligands using engineered polypeptides and receptors; pharmaceutical preparations for immunotherapy using polypeptides and genetically engineered cells; pharmaceutical preparations for immune cell therapy using polypeptides and genetically engineered cells.”

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 5068997. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the attached registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. *See* 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by-case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. *See In re Viterro Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

For the following reasons, the examining attorney concludes that there exists a likelihood of confusion between applicant's proposed mark, SPARX PROTEIN (SN: 88861317) for “Biological preparations for the treatment of cancer using polypeptides and genetically engineered cells; pharmaceutical preparations for targeting tissues based on select tissue markers and ligands; pharmaceutical preparations for the purpose of binding ligands using engineered polypeptides and receptors; pharmaceutical preparations for immunotherapy using polypeptides and genetically engineered cells; pharmaceutical preparations for immune cell therapy using polypeptides and genetically engineered cells” and:

1. SPARK, for “biologic preparations for use in the diagnosis and treatment of retinal degenerative and hematologic disorders and diseases”

Similarity of the Marks

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1321, 110 USPQ2d 1157, 1160 (Fed. Cir. 2014) (quoting *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1371, 73 USPQ2d 1689, 1691 (Fed. Cir. 2005)); TMEP §1207.01(b)-(v). “Similarity in any one of these elements may be sufficient to find the marks confusingly similar.” *In re Davia*, 110 USPQ2d 1810, 1812 (TTAB 2014) (citing *In re 1st USA Realty Profs, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007)); *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988)); TMEP §1207.01(b).

The applied-for mark is SPARX PROTEIN. The registered mark is SPARK. The marks are similar in terms of sound, connotation and overall commercial impression because they feature dominant terms that are phonetically the plural and singular of the same term and the remaining differences do not sufficiently distinguish the marks to avoid confusion.

When comparing marks, “[t]he proper test is not a side-by-side comparison of the marks, but instead whether the marks are sufficiently similar in terms of their commercial impression such that [consumers] who encounter the marks would be likely to assume a connection between the parties.” *Cai v. Diamond Hong, Inc.*, 901 F.3d 1367, 1373, 127 USPQ2d 1797, 1801 (Fed. Cir. 2018) (quoting *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1368, 101 USPQ2d 1713, 1721 (Fed. Cir. 2012)); TMEP §1207.01(b). The proper focus is on the recollection of

the average purchaser, who retains a general rather than specific impression of trademarks. *In re Inn at St. John's, LLC*, 126 USPQ2d 1742, 1746 (TTAB 2018) (citing *In re St. Helena Hosp.*, 774 F.3d 747, 750-51, 113 USPQ2d 1082, 1085 (Fed. Cir. 2014); *Geigy Chem. Corp. v. Atlas Chem. Indus., Inc.*, 438 F.2d 1005, 1007, 169 USPQ 39, 40 (C.C.P.A. 1971)), *aff'd per curiam*, 777 F. App'x 516, 2019 BL 343921 (Fed. Cir. 2019); TMEP §1207.01(b).

Consumers are generally more inclined to focus on the first word, prefix, or syllable in any trademark or service mark. *See Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 1372, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005) (finding similarity between VEUVE ROYALE and two VEUVE CLICQUOT marks in part because “VEUVE . . . remains a ‘prominent feature’ as the first word in the mark and the first word to appear on the label”); *Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 876, 23 USPQ2d 1698, 1700 (Fed. Cir. 1992) (finding similarity between CENTURY 21 and CENTURY LIFE OF AMERICA in part because “consumers must first notice th[e] identical lead word”); *see also In re Detroit Athletic Co.*, 903 F.3d 1297, 1303, 128 USPQ2d 1047, 1049 (Fed. Cir. 2018) (finding “the identity of the marks’ two initial words is particularly significant because consumers typically notice those words first”).

An applied-for mark that is the singular or plural form of a registered mark is essentially identical in sound, appearance, meaning, and commercial impression, and thus the marks are confusingly similar. *Swiss Grill Ltd., v. Wolf Steel Ltd.*, 115 USPQ2d 2001, 2011 n.17 (TTAB 2015) (holding “it is obvious that the virtually identical marks [the singular and plural of SWISS GRILL] are confusingly similar”); *Weider Publ'ns, LLC v. D & D Beauty Care Co.*, 109 USPQ2d 1347, 1355 (TTAB 2014) (finding the singular and plural forms of SHAPE to be essentially the same mark) (citing *Wilson v. Delaunay*, 245 F.2d 877, 878, 114 USPQ 339, 341 (C.C.P.A. 1957) (finding no material difference between the singular and plural forms of ZOMBIE such that the marks were considered the same mark). In this case the applied for mark's dominant element is a novel spelling of the plural of the registered mark.

Although marks are compared in their entireties, one feature of a mark may be more significant or dominant in creating a commercial impression. *See In re Detroit Athletic Co.*, 903 F.3d 1297, 1305, 128 USPQ2d 1047, 1050 (Fed. Cir. 2018) (citing *In re Dixie Rests.*, 105 F.3d 1405, 1407, 41 USPQ2d 1531, 1533-34 (Fed. Cir. 1997)); TMEP §1207.01(b)(viii), (c)(ii). Matter that is descriptive of or generic for a party's goods and/or services is typically less significant or less dominant in relation to other wording in a mark. *See Anheuser-Busch, LLC v. Innvopak Sys. Pty Ltd.*, 115 USPQ2d 1816, 1824-25 (TTAB 2015) (citing *In re Chatam Int'l Inc.*, 380 F.3d 1340, 1342-43, 71 USPQ2d 1944, 1946 (Fed. Cir. 2004)).

In the present case, the attached evidence shows that the wording PROTEIN in the applied-for mark is merely descriptive of or generic for applicant's goods. Thus, this wording is less significant in terms of affecting the mark's commercial impression, and renders the wording SPARX the more dominant element of the mark.

Accordingly giving appropriate weight to each feature of the marks, the marks when considered in their entireties are sufficiently similar to create consumer confusion or mistake as to the source of the goods.

Relatedness of the Goods

The goods and/or services of the parties need not be identical or even competitive to find a likelihood of confusion. *See On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective goods and/or services need only be “related in some manner and/or if the circumstances surrounding their marketing [be] such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d 1715, 1724 (TTAB 2007)); TMEP §1207.01(a)(i).

The trademark examining attorney has attached evidence from the USPTO's X-Search database consisting of a number of third-party marks registered for use in connection with the same or similar goods and/or services as those of both applicant and registrant in this case. This evidence shows that the goods and/or services listed therein, namely pharmaceutical preparations and biological preparations for treating similar issues are offered under the same mark. In this case owing to the very broad nature of the second and third clauses in the identification the goods of the parties are deemed to be related because the applicant's goods could be used in the same field of use to treat the same kinds of issues, and are therefore of a kind that may emanate from a single source under a single mark. *See In re I-Coat Co.*, 126 USPQ2d 1730, 1737 (TTAB 2018) (citing *In re Infinity Broad. Corp.*, 60 USPQ2d 1214, 1217-18 (TTAB 2001); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988)); TMEP §1207.01(d)(iii).

Further, the attached Internet evidence, consisting of third party websites, establishes that the same entity commonly manufactures, produces, or provides the relevant goods and markets the goods under the same mark. The attached evidence shows that many different biologics and pharmaceuticals are made under the same mark and are marketed in the same manner. Thus, applicant's and registrant's goods and/or services are considered related for likelihood of confusion purposes. *See, e.g., In re Davey Prods. Pty Ltd.*, 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In*

re Toshiba Med. Sys. Corp., 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Other Considerations

The Trademark Act not only guards against the misimpression that the senior user is the source of a junior user's goods and/or services, but it also protects against "reverse confusion," where a significantly larger or prominent junior user is perceived as the source of a smaller, senior user's goods and/or services such that the "senior user may experience diminution or even loss of its mark's identity and goodwill due to extensive use of a confusingly similar mark by the junior user" for related goods and/or services. *In re i.am.symbolic, llc*, 866 F.3d 1315, 1329, 123 USPQ2d 1744, 1752 (Fed. Cir. 2017) (quoting *In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993)); *Fisons Horticulture, Inc. v. Vigoro Indust., Inc.*, 30 F.3d 466, 474-75, 31 USPQ2d 1592, 1597-98 (3d Cir. 1994).

The overriding concern is not only to prevent buyer confusion as to the source of the goods and/or services, but to protect the registrant from adverse commercial impact due to use of a similar mark by a newcomer. *See In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993). Therefore, any doubt regarding a likelihood of confusion determination is resolved in favor of the registrant. TMEP §1207.01(d)(i); *see Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 USPQ2d 1001, 1003 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 464-65, 6 USPQ2d 1025, 1026 (Fed. Cir. 1988).

Accordingly, use of SPARX PROTEIN and SPARK on the identified goods is likely to lead to consumer confusion or mistake as to the source of the goods.

Accordingly, applicant is refused registration under Section 2(d) of the Trademark Act.

PRIOR-FILED APPLICATION(S)

The filing dates of pending U.S. Application Serial Nos. 86676794, 86676795, 86732292, 86732294, 86732294, 86732318, 87312892, and 87312895 precede applicant's filing date. See attached referenced applications. If one or more of the marks in the referenced applications register, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion with the registered mark(s). *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced applications.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the marks in the referenced applications. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration. However, if applicant responds to the refusal(s), applicant must also respond to the requirement(s) set forth below.

DISCLAIMER REQUIRED

Applicant must disclaim the wording "PROTEIN" because it is merely descriptive of an ingredient, quality, characteristic, function, feature, purpose, or use of applicant's goods and/or services. *See* 15 U.S.C. §1052(e)(1); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012); TMEP §§1213, 1213.03(a).

In the context of the goods the attached evidence from internet dictionaries shows the wording PROTEIN means "[a]ny of a class of nitrogenous organic compounds that consist of large molecules composed of one or more long chains of amino acids and are an essential part of all living organisms, especially as structural components of body tissues such as muscle, hair, collagen, etc., and as enzymes and antibodies." The goods feature biological and pharmaceutical preparations. Further attached evidence from the applicant's website shows that one of the main components of the applicant's treatment are proteins. Thus, the wording merely describes applicant's goods because a primary characteristic/feature of the goods are proteins and therefore must be disclaimed.

Applicant may respond to this issue by submitting a disclaimer in the following format:

No claim is made to the exclusive right to use "PROTEIN" apart from the mark as shown.

For an overview of disclaimers and instructions on how to provide one using the Trademark Electronic Application System (TEAS), see the [Disclaimer webpage](#).

IDENTIFICATION OF GOODS

The wording “pharmaceutical preparations for targeting tissues based on select tissue markers and ligands; pharmaceutical preparations for the purpose of binding ligands using engineered polypeptides and receptors” in the identification of goods is indefinite and must be clarified because the two clauses do not note what malady is specifically being treated and/or the particular field of medicine the goods are being used in. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01. Applicant may substitute the following wording, if accurate: “Biological preparations for the treatment of cancer using polypeptides and genetically engineered cells; pharmaceutical preparations for targeting tissues based on select tissue markers and ligands **for use in {please specify the field of use, e.g. oncology, urology, dermatology, immunotherapy}**; pharmaceutical preparations for the purpose of binding ligands using engineered polypeptides and receptors **for use in {please specify the field of use, e.g. oncology, urology, dermatology, immunotherapy}**; pharmaceutical preparations for immunotherapy using polypeptides and genetically engineered cells; pharmaceutical preparations for immune cell therapy using polypeptides and genetically engineered cells.”

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO’s online searchable [U.S. Acceptable Identification of Goods and Services Manual](#). *See* TMEP §1402.04.

RESPONSE GUIDELINES

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

How to respond. [Click to file a response to this nonfinal Office action.](#)

/Charles Hiser/
Examining Attorney
Law Office 130
(571) 272-7526
Charles.Hiser@uspto.gov

RESPONSE GUIDANCE

- **Missing the response deadline to this letter will cause the application to [abandon](#).** A response or notice of appeal must be received by the USPTO before midnight **Eastern Time** of the last day of the response period. TEAS and ESTTA maintenance or [unforeseen circumstances](#) could affect an applicant’s ability to timely respond.
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

Print: Jun 24, 2020

86068955

DESIGN MARK

Serial Number

86068955

Status

REGISTERED

Word Mark

SPARK

Standard Character Mark

Yes

Registration Number

5068997

Date Registered

2016/10/25

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

SPARK THERAPEUTICS, INC. CORPORATION DELAWARE 3737 Market Street,
Suite 1300 PHILADELPHIA PENNSYLVANIA 19104

Goods/Services

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:
biologic preparations for use in the diagnosis and treatment of
retinal degenerative and hematologic disorders and diseases. First
Use: 2014/02/00. First Use In Commerce: 2014/02/00.

Filing Date

2013/09/19

Examining Attorney

BURNS, ELLEN

Attorney of Record

Jamie B. Bischoff

SPARK

Print: Jun 24, 2020

86676794

DESIGN MARK

Serial Number

86676794

Status

OPPOSITION PENDING

Word Mark

SPARC

Standard Character Mark

Yes

Type of Mark

SERVICE MARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

SUN PHARMA ADVANCED RESEARCH COMPANY LTD LIMITED LIABILITY COMPANY
INDIA 17-B, MAHAL INDUSTRIAL AREA Off- MAHAKALI CAVES ROAD, ANDHERI
(East) CHAKALA, MUMBAI 400093 INDIA

Goods/Services

Class Status -- ACTIVE. IC 042. US 100 101. G & S: Medical
research; Pharmaceutical research and development; Pharmaceutical
research services.

Foreign Country Name

INDIA

Foreign Priority

FOREIGN PRIORITY CLAIMED

Foreign Application Number

2993983

Foreign Filing Date

2015/06/26

Foreign Registration Number

2993983

Foreign Registration Date

2015/06/26

Print: Jun 24, 2020

86676794

Foreign Expiration Date

2025/06/26

Translation Statement

The wording "SPARC" has no meaning in a foreign language.

Filing Date

2015/06/29

Examining Attorney

HACK, ANDREA

Attorney of Record

Craig Kuchii, Esq.

EXHIBIT 13


[Donate](#)

 WDOE
All Things Considered

NEXT UP: 6:30 PM Marketplace

On Air

[HOME](#) [DELAWARE NEWS](#) [PROGRAMS](#) [ABOUT US](#) [FIND US](#) [RADIO SCHEDULE](#) [SUBSCRIBE TO E-NEWS](#) [WAYS TO DONATE](#)

NPR Headlines

First Gene Therapy For Inherited Disease Gets FDA Approval



By Rob Stein

Published December 19, 2017 at 1:17 PM EST



This Food and Drug Administration approved Luxturna, a gene therapy developed by Spark Therapeutics, to treat an inherited form of blindness.

The Food and Drug Administration Tuesday approved the first gene therapy to treat an inherited disease.

The treatment is called Luxturna, a genetically modified virus that ferries a healthy gene into the eyes of patients born with [retinal dystrophy](#), a rare condition that destroys cells in the retina needed for healthy vision.

In tests on patients, the treatment often produced dramatic results, restoring the ability of patients to see things they could never see before, such as the stars, the moon, fireworks and their parents' faces.

The treatment also enabled patients to do many things that had been impossible, such as read, play sports, ride bicycles and go outside at night by themselves.

"Today's approval marks another first in the field of gene therapy," said FDA Commission Scott Gottlieb in a [statement](#) announcing the decision. "This milestone reinforces the potential of this breakthrough approach in treating a wide range of challenging diseases."

The approval marks the latest development in the rapidly moving field of gene therapy, which for years was mired in disappointments and disasters.

In August, the FDA [approved](#) Kymriah, the first gene-therapy product to treat a form of leukemia. A [second](#) gene-based treatment, called Yescarta, was approved for a form of lymphoma in October.

Gene therapy is [showing promise](#) for many other conditions.

Despite the rising enthusiasm for the approach, there are still some concerns. They include the safety of some of the treatments and the cost. The first gene therapy product costs \$475,000 per patient.

Spark Therapeutics, which makes Luxturna, hasn't said how much it will charge. But there is a widespread expectation that it could cost at least \$1 million to treat each patient.

"I think the price tag will be enormous — 20 or 30 times the annual wages of the typical American," says Dr. Peter Bach, director of the Center for Health Policy and Outcomes at the Memorial Sloan Kettering Cancer Center.

"For rare conditions like this, the question we need to ask ourselves is exactly how much wealth should be transferred from society to the investors in these companies," Bach says. "Without addressing that we are just letting the investors decide how much they can take."

The FDA's decision to approve Luxturna follows a [unanimous recommendation](#) in its favor by an advisory committee in October.

Copyright 2021 NPR. To see more, visit <https://www.npr.org>.

[NPR Headlines](#)




Rob Stein

Rob Stein is a correspondent and senior editor on NPR's science desk.

[See stories by Rob Stein](#)

Stay Connected



© 2021

Privacy Policy

Legal

FCC Applications

Employment & Internships



Delaware State
University



EXHIBIT 14

February 2021



BIO BUZZ

Newsletter

From the President



Dear all,
Two recent announcements underscore the extraordinary momentum of the Delaware bioscience community...

[Read more
delawarebio.org](https://delawarebio.org)

In the News



This new Delaware pilot program is good news for biotech ...

Delaware's bioscience industry is growing. It's the home of global research and development firms like Gore, FMC and Chemours, as well as up-and-coming startups like VersoGen. That's a good thing for the local economy that also happens to pose a...

[Read more
technical.ly](https://technical.ly)



Gene Editing Education Addresses Health Disparities

A commitment to community, reducing inequity and health disparities in health care, educating the next generation in gene editing, and advocating that all people have access to breakthrough technologies have long been priorities for the Gene...

[Read more
ceocouncilforgrowth.com](https://ceocouncilforgrowth.com)



Spark doses first Pompe disease patient in clinical...

Philadelphia-based gene therapy developer Spark Therapeutics said Monday it has dosed the first patient in early-stage clinical trial testing of its experimental gene therapy for Pompe disease. Pompe disease, which affects an estimated one in...

[Read more](http://www.bizjournals.com)
www.bizjournals.com



Incyte Announces Positive CHMP Opinion for Pemigatinib...

Incyte today announced that the European Medicines Agency's (EMA) Committee for Medicinal Products for Human Use (CHMP) has issued a positive opinion recommending the conditional marketing authorization of...

[Read more](http://www.businesswire.com)
www.businesswire.com



AstraZeneca's EGFR inhibitor Tagrisso...

AstraZeneca's Tagrisso has established a strong foothold in non-small cell lung cancer - the largest section of the lung cancer community - with multiple approvals in the early setting. Those approvals include patients with removed tumors, an...

[Read more](http://endpts.com)
endpts.com



Forming a healthy habit | UDaily

Renal rehab found a home in clinical exercise physiology, where graduate students learn to design, implement and supervise exercise programming for people with chronic cardiopulmonary, metabolic and musculoskeletal diseases as well as healthy and ...

[Read more](http://www.udel.edu)
www.udel.edu



Coons: Return of earmarks could yield Delaware win -...

With Congressional Democrats reportedly preparing to overturn a more than decade-long ban on federal earmarks, U.S. Sen. Chris



10 Philadelphia Biotech Companies Targeting Rare...

Philadelphia, the birthplace of cell and gene therapy, is home to a number of companies focused on developing multiple treatment

Coons (D-Del.) told state biotech leaders that he anticipated lobbying for more investment in Delaware's...

[Read more](#)
delawarebusinesstimes.com

options for rare diseases, those that affect less than 200,000 people in the United States.

[Read more](#)
biobuzz.io

DE-INBRE Funding Opportunities

Delaware INBE is offering two important funding opportunities of up to \$120,000 over two years - the Research Independence Awards and the Research Engagement Awards.

For further details on deadlines and eligibility please see the RFA:

Link to webpage with an overview: <http://de-inbre.org/pilot-project-applications/>

Link to application: <http://de-inbre.org/wp-content/uploads/2019/05/2021-INBRE4-RFA-Cohort2-for-Release-29Jan2021.docx>

Upcoming Events

March 18 BioBreakfast on "Bio Diversity" - Keep an eye out for registration information for next month's program focusing on expanding opportunity and engagement among underrepresented groups across life science research and the STEM talent pipeline

New Members

Join us in welcoming the newest members to Delaware Bio!



The King Group at Morgan Stanley



Membership Anniversary

Congratulations to these Delaware Bio members celebrating their anniversaries this month!

5+ years

AstraZeneca
Delaware Technical Community College
LabWare
Romer Labs

1-4 years

Delaware Diagnostics Labs
Delaware Prosperity Partnership
Insperity
Oakgrove Bio
STM Pharma

BIO Business Solutions

BIO Business Solutions is the largest cost savings purchasing program for the life sciences industry, operated by BIO. BIO Business Solutions pools the purchasing power of thousands of life sciences companies across North America to negotiate for exclusive pricing and favorable terms on lab supplies, office supplies, insurance, and much more.



VWR

VWR offers Delaware Bio members savings of up to 75% from list on hot list of more than 8,000 items. Discounts across the entire VWR product offering...

[Read more](#)
delawarebio.org



SHAREVAULT

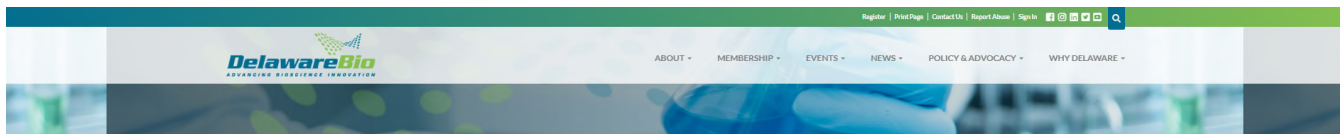
ShareVault offers Delaware Bio members a minimum 20% discount on ShareVault's primary products and a minimum 30% discount off the standard pricing of ShareVault for SharePoint...

[Read more](#)
delawarebio.org

Get Social With Us
#DEBIO



EXHIBIT 15



May 2021 BioBreakfast

Tell a Friend



5/19/2021

When: Wednesday, May 19 2021
8:30 am

Where: Virtual
United States

Contact: Delaware Bioscience Association
info@delawarebio.org
(302) 635-0445

Online registration is closed.
• [Already Registered? Check-In Online](#) •

[Go to Upcoming Event List](#)



Innovating Bioscience to Improve Patient Lives

Join us on Wednesday, May 19th at 8:30 am to experience the same great BioBreakfast event in a virtual setting.

Groundbreaking new technologies and capabilities transforming life science research are only as valuable as their impact on saving and improving human lives. So, understanding and applying the real-life experience of patients contending with debilitating illnesses, chronic and deadly diseases is imperative for the success of bioscience innovation. Our BioBreakfast will explore how leading life science innovators keep patient outcomes at the heart of everything they do.

We'll learn about new approaches to ensure broader, diverse patient populations are engaged in medicine development and clinical trials, how research organizations are bringing the patient experience into strategy and planning, and how regulators are changing their views on patient input in the process of approving new medicines.

Event Speakers



Amy Fisher

Head of Patient Advocacy

Spark Therapeutics

As the Head of Patient Advocacy at Spark Therapeutics, Amy Fisher is responsible for building and sustaining relationships with patient advocacy organizations aligned with Spark Therapeutics' disease areas of interest and leading a team committed to differentiated community engagement and empowerment through gene therapy research education. Amy brings over two decades' experience in rare diseases to her current role, from clinical care in academic medicine, to medical affairs and patient advocacy roles in industry. While Amy's depth of experience is greatest in the lysosomal storage disorders (LSD) communities, she has also worked with communities focused on hereditary angioedema, epidermolysis bullosa, Prader-Willi syndrome, Huntington's disease, inherited retinal diseases and specific rare liver conditions. She is passionate about ensuring the patient perspective and experience is valued throughout the drug development lifecycle.

Amy earned a B.S. in Biology (Genetics and Developmental Biology, honors in Biochemistry and Molecular Biology) from Penn State University, and a M.S. in Human Genetics (Genetic Counseling) from the University of Michigan. She is a board-certified genetic counselor by the American Board of Genetic Counseling.



Ashok Subramanian

CEO

CarePortMD

I am board-certified in Emergency Medicine with a 20+ year background in both acute care medicine and in the development and commercialization of technology solutions for health and Pharma. I am currently the CEO and co-founder of CarePortMD, a technology-based care coordination service that leverages telemedicine and live care navigators to improve patients' access to low-cost, integrative care.

CarePortMD transforms health and wellness destinations into collaborative care hubs, where patients can obtain physical examinations, blood testing, EKGs and monitoring to facilitate diagnosis and treatment by a growing number of doctors, specialists, and clinical service providers who can connect remotely to the CarePort. Furthermore, upon completion of an encounter, patients have the added benefit of being able to fill their prescriptions on-site at the pharmacy.

CarePortMD allows doctors and specialists to maintain continuity of care for their patients without the overhead of keeping an office open after hours and on holidays. For those times when a doctor is unavailable, another CarePortMD provider fills in. Changes made to care plans are kept transparent to the referring doctors through the secure CarePortMD platform. A primary mission of CarePortMD is to align independent existing clinical services in a region to enable truly patient-centric care on an interoperable platform.

Specialties: Emergency Medicine and Trauma, EMS medical direction, aviation medicine, molecular medicine and signal transduction, medical multimedia communications, clinical research.



Matt Walz

CEO

Trialbee

Matt has been bringing technology innovations to Life Sciences for over 20 years. A software engineer by trade, Matt began working with large pharmaceutical companies while working at Microsoft in the early 2000's. This eventually led to an entrepreneurial journey where he founded NextDocs in 2006, a venture-backed software company which grew to be a global leader in clinical, quality and regulatory document management across the US, Europe and Asia. Aurea Software acquired NextDocs in 2015 and Matt continued to serve as the General Manager of their Life Sciences business unit. In 2020 Matt became CEO of Trialbee, a company dedicated to creating the future of patient matching and enrollment for clinical trials through disruptive SaaS products. Matt is a recognized thought leader on technology innovations in Life Sciences and frequent speaker at conferences, including keynotes at events such as Drug Information Association (DIA), Boston Society's Applied Pharmaceutical Software, Microsoft's Life Science Innovation Forum, ShareFEST and GR8 Philadelphia. Matt was a 2013 recipient of Philadelphia Business Journal's 40 Under 40, SmartCEO Magazine's Philadelphia Executive Management Award in 2011 and served on Microsoft's Partner Advisory Council for Office/SharePoint from 2008 - 2015.

Series Sponsors



Event Sponsors



Delaware BioScience Association

PO Box 7706, Wilmington, DE 19803
Phone: +1 302 635 0445
Fax: +1 302 452 1101
Email: info@delawarebio.org

About Us

Member Benefits

Policy & Advocacy

Events

News

Stay Informed

Why Delaware

Facebook

Instagram

LinkedIn

Twitter

YouTube

Member Log In

Sign Up for Our Newsletter

EXHIBIT 16

Document title: LUXTURNA™ test site, retina specialists, IRD - EPS is a Screening Site.

Capture URL: <https://www.eyephysicians.com/blog/2018/02/06/eps-is-a-screening-site-189069>

Captured site IP: 69.43.202.154

Page loaded at (UTC): Thu, 09 Dec 2021 15:58:53 GMT

Capture timestamp (UTC): Thu, 09 Dec 2021 15:59:17 GMT

Capture tool: v7.13.2

Collection server IP: 34.230.137.168

Browser engine: Chrome/77.0.3865.120

Operating system: Microsoft Windows NT 10.0.17763.0 (10.0.17763.0)

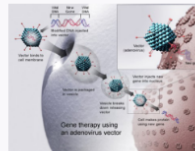
PDF length: 5

Capture ID: 2e6781ca-6b9f-4626-a2de-f25896087342

User: bs-prestonm



EPS is a Screening Site for new
Gene Therapy
LUXTURNA™
 BY EYE PHYSICIANS AND SURGEONS, P.A. ON
 FEBRUARY 06, 2018



American Society of Retina Specialists (ASRS) reports that LUXTURNA™, a one-time gene therapy treatment, has been approved by the FDA. This is exciting news to retina specialists as they have new hope to offer those with IRD –more specifically a particular Inherited Retinal Disease. In order to receive this treatment a patient must be tested to see if they have viable retinal cells. We are happy to report that EPS is a screening site and we are well supplied with test kits. It is important to note that most of those who have confirmed gene mutation-associated retinal dystrophy will progress to blindness, therefore our Retina Specialists, Dr. Paula Ko and Dr. Carolyn Glazer-Hockstein, are excited to have this new treatment available. If you need to be tested for this therapy simply call 302-652-3353 and our reception group will be happy to get you scheduled.

ASRS OFFERS THE FOLLOWING SOURCES OF INFORMATION ABOUT THIS TREATMENT:

ASRS OFFERS THE FOLLOWING SOURCES OF INFORMATION ABOUT THIS TREATMENT:

- FOUNDATION FIGHTING BLINDNESS: [HTTP://WWW.BLOODARISE.ORG/](http://www.bloodarise.org/)
- INFO ON GENE THERAPY, GENETIC TESTING, LIVING WITH IRDS: [WWW.ASHAREDVISION.COM](http://www.asharedvision.com)
- INFORMATION ON LUXTRNA™, BLOODARISE™, THERAPY TREATMENT CENTERS, AND GENETIC TESTING PROGRAM: [WWW.LUXTRNA.COM](http://www.luxturna.com)
- INFORMATION ON SPARK PATIENT SUPPORT SERVICES: 1-833-SPARK-PS (1-833-772-7577).

FURTHER INFORMATION CAN BE FOUND IN THE PRESS RELEASE [HTTP://IR.SPARKTX.COM/NEWS-RELEASES/NEWS-RELEASE-DETAILS/FDA-APPROVES-SPARK-THERAPEUTICS-LUXTURNATM-VORETIGENE-NEPARVOVEC FROM SPARK THERAPEUTICS, MANUFACTURERS OF LUXTRNA™.](http://ir.sparktx.com/news-releases/news-release-details/fda-approves-spark-therapeutics-luxturna-tm-voretigene-neparvovec-from-spark-therapeutics-manufacturers-of-luxturna-tm)

Related to This

- All Blog Posts
- Blindness
- Gene Therapy
- Fda

Popular Tags All Posts by Month Atom RSS

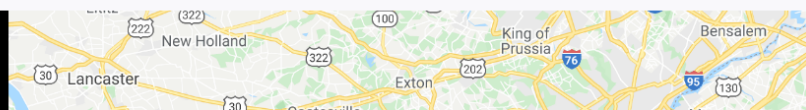
EYE PHYSICIANS AND SURGEONS, P.A.



Eye Physicians and Surgeons, P.A., has been a trusted fixture in the community for more than three decades. Our caring, expert staff is affiliated with the:

- American Medical Association
- American Academy of Ophthalmology
- Delaware Academy of Ophthalmology

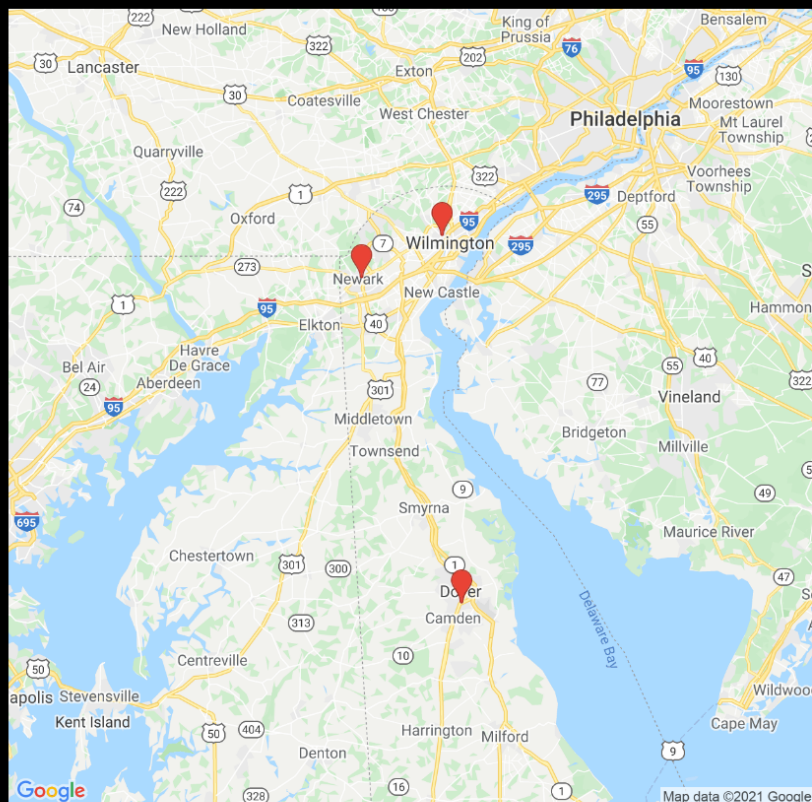
Our office can be reached 24 hours a day, seven days a week. Emergency care and weekend and evening appointments are available. Call us at (302) 652-3353, use our online form to request a consultation, or email us.



Locations

We have 3 locations in We have three convenient locations in Delaware

[VIEW LOCATIONS](#)



Message OUR STAFF

Name

Email

Phone Number

Message

☐

I'm not a robot



Privacy - Terms

[Send Message](#)

"Wonderful staff and lots of friendly faces. Everyone eager to answer questions and make your visit a pleasant experience. Cataract surgery with Dr. Minkovitz was terrific - his surgical staff was efficient and helpful. Thanks Eye Physicians and Surgeons!"



Message OUR STAFF



I'm not a robot



Send Message

"Wonderful staff and lots of friendly faces. Everyone eager to answer questions and make your visit a pleasant experience. Cataract surgery with Dr. Minkovitz was terrific - his surgical staff was efficient and helpful. Thanks Eye Physicians and Surgeons!"

Rate, Review & Explore

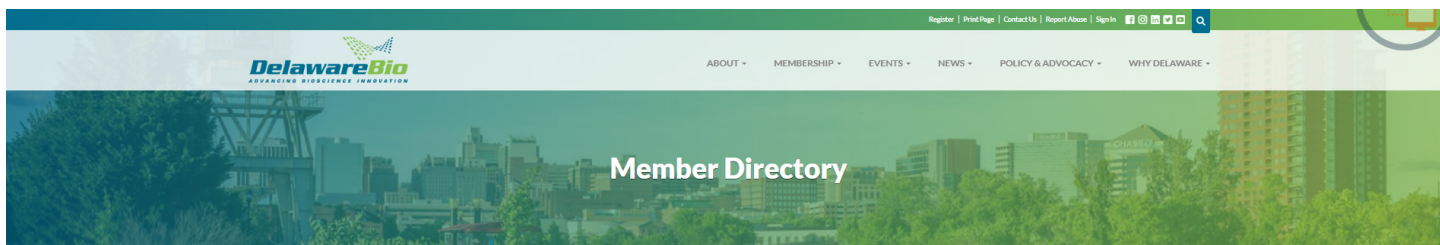




*Disclaimer: results are not guaranteed, may not be permanent, and can vary per individual. Some images are of models, not actual patients.

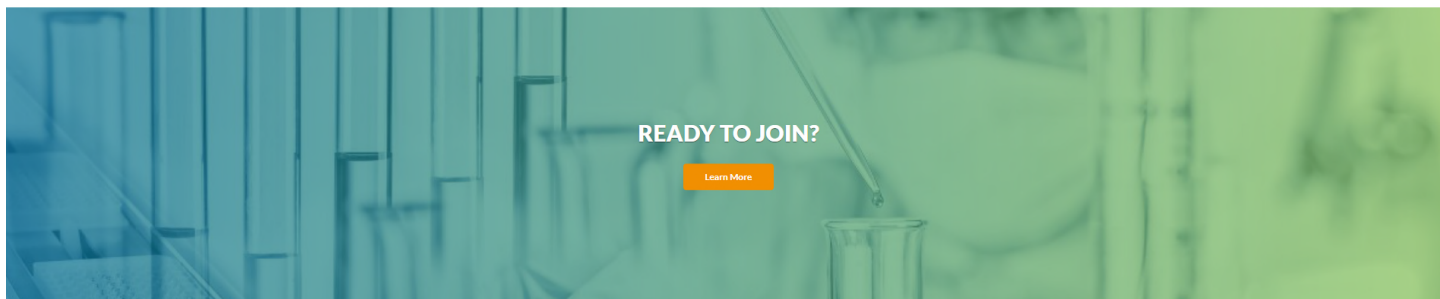
©1998 - 2021 Eye Physicians and Surgeons, P.A. | Forever Website® 2.0 | Designed & Developed by [Einstein Medical](#)

[Sitemap](#) | [Privacy Policy](#) | [Login](#)

EXHIBIT 17










Vismi, LLC			
			

STAY UP TO DATE

Sign up to receive our newsletter, upcoming event notifications, and industry news

[Sign Up Now](#)

OUR SPONSORS

SUSTAINING SPONSOR



SUSTAINING SPONSOR



SUSTAINING SPONSOR



SUSTAINING SPONSOR



PARTNER SPONSOR



PARTNER SPONSOR



Delaware BioScience Association

PO Box 7708, Wilmington, DE 19803
Phone: +1 302 635 0445
Fax: +1 302 452 1101
Email: info@delawarebio.org

About Us

[Member Benefits](#)
[Policy & Advocacy](#)
[Events](#)

News

[Stay Informed](#)
[Why Delaware](#)



[Member Log In](#)

[Sign Up for Our Newsletter](#)

© 2021 Delaware BioScience Association. All Rights Reserved. Delaware BioScience Association is a 501(c)(3) non-profit organization.

EXHIBIT 18

Find a Specialist

Use the Specialist Locator below to find a retina specialist in your area of the United States who can discuss genetic testing for *RPE65* mutations and provide more information on Inherited Retinal Diseases.

You must agree to the Terms and Conditions and then enter your ZIP code below.

☒ I agree to the Terms and Conditions. [View the Terms and Conditions here.](#)

19803

SUBMIT

Here’s a list of specialists, starting with those closest to you:

- Carolyn Glazer-Hockstein, MD**

Eye Physicians and Surgeons
1207 North Scott Street
Wilmington, DE 19806

(302) 652-3353
- Paula Ko, MD**

Eye Physicians and Surgeons
1207 North Scott Street
Wilmington, DE 19806

(302) 652-3353
- Georgia Crozier, DO**

Moore Eye Care, PC
100 W Sproul Road Ste # 100
Springfield, PA 19064

(610) 690-4900


HEALTHCARE PROFESSIONALS

This site is intended for US residents only. By prescription only.


Indication


Important Safety Information

US Full Prescribing Information




Moore Eye Care, PC
460 Creamery Way Ste 105
Exton, PA 19341

 (610) 524-3110



Deepak Grover, DO

Jahnle Eye Associates
2010 West Chester Pike, Suite 310
Havertown, PA 19083

 610-446-2260

If you do not see a specialist in your immediate area, please continue to check back as more specialists are being added to the Specialist Locator

If you are a healthcare professional in the United States and would like to be listed as a specialist, please fill out your information on the [Specialist Sign-up](#) website.

IMPORTANT: This Specialist Locator may provide information about healthcare professionals or links to or information about other websites not affiliated with Spark Therapeutics. This information is provided only as a service for convenience. Spark is not responsible for the content of such other sites and shall not be liable for any damages or injury arising from users' access to such sites.

IMPORTANT SAFETY INFORMATION FOR LUXTURNA

The following serious side effects may occur during or after the administration of LUXTURNA:

- Eye infections, including a serious infection inside of the eye called endophthalmitis, that may lead to blindness.
- Permanent decline in visual acuity, or the sharpness of central vision.
- Changes in the retina (the thin layer of tissue in the back of the eye) that can lead to vision loss including:
 - development of a hole, thinning, or loss of function of the retina, separation of the layers in the center of the retina, or bleeding in the retina.
 - breaks in or wrinkling on the surface of the retina or detachment of the retina.
- Increased pressure inside of the eye. You should follow-up with your healthcare professional as instructed to detect and treat any increased pressure in the eye as this may cause blindness.
- Expansion of the air bubble formed in the eye after administration of LUXTURNA. You should avoid air travel, travel to high elevations, or scuba diving until your healthcare professional has told you that the air bubble formed in the eye following administration of LUXTURNA has disappeared. Engaging in these activities while the air bubble is present can cause permanent vision loss.
- Formation or worsening of cataract (clouding of the lens inside of the eye).

Tell your healthcare professional right away if you have any of the following symptoms of these serious side effects:

- Seeing floaters (specks that float about in your field of vision)

INDICATION

LUXTURNA (voretigene neparvovec-rzyl) is a prescription gene therapy product used for the treatment of patients with inherited retinal disease due to mutations in both copies of the *RPE65* gene, which can only be confirmed through genetic testing. You must also have enough remaining cells in your retina (the thin layer of tissue in the back of your eyes) as determined by your healthcare professional.

https://luxturna.com/specialist-locator/?zip=19803

2/3

- Any change in vision including decreased vision or blurred vision
- Seeing flashes of light

The following are the most common side effects that may occur with LUXTURNA:

- Redness of the eye
- Cataract (clouding of the lens inside of the eye)
- Increased pressure inside of the eye
- Breaks in the retina
- Dellen (thinning of the clear layer in the front of the eye)
- Development of a hole in the center of the retina
- Subretinal deposits (deposits under the retina)
- Eye swelling, irritation or pain
- Wrinkling on the surface of the center of the retina

Treatment with LUXTURNA is not recommended for patients younger than 12 months of age because the retina is still growing, which may affect how LUXTURNA works.

Because small quantities of LUXTURNA may be in your tears for a short period of time, for the first 7 days after administration of LUXTURNA, place any waste material from dressings, tears and nasal secretions in sealed bags prior to disposal.

You are encouraged to report negative side effects of prescription drugs to the FDA. Visit www.fda.gov/medwatch, or call 1-800-FDA-1088. You may also report side effects to Spark Therapeutics at 1-855-SPARKTX (1-855-772-7589).

This information does not take the place of talking to your healthcare professional about your medical condition or treatment. If you have questions about LUXTURNA after reading this information, ask your healthcare professional.

[Please see the US Full Prescribing Information](#) for LUXTURNA.

Throughout the creation of this website, we followed accessibility guidelines established by the [World Wide Web Consortium \(W3C®\)](#), an international group that develops website standards. Sites that don't meet these guidelines can be challenging, or even unusable, for people with low vision. To avoid that possibility, we relied on W3C principles to guide each step and to make this site accessible to all of our visitors.

^

[back to top](#)

[Terms of Use](#) | [Privacy Policy](#) | [Contact Us](#) | [Site Map](#)



Spark, Spark Therapeutics and design, Luxturna, Luxturna and its design, Spark Therapeutics Generation Patient Services, and Spark Therapeutics Generation Patient Services and its design are trademarks and registered marks of Spark Therapeutics, Inc., in the United States and other countries.
W3C is a registered trademark of the World Wide Web Consortium.

© 2020 Spark Therapeutics, Inc. All rights reserved.
P-RPE65-US-200007-9

EXHIBIT 19


[Refer a Patient](#)
[Research](#)
[Professional Education](#)
[Careers](#)
[GIVING](#)
[NEMOUR](#)
[Find a Doctor](#)
[Find a Location](#)
[Services & Specialties](#)
[Conditions](#)
[Well Beyond Medicine](#)
[SEARCH](#)

Emi H. Caywood, MD



Hematology/Oncology

Practicing Since: 2009

View Profile →

Nemours Childrens Hospital, Delaware

 1600 Rockland Road
 Wilmington, DE 19803

(800) 416-4441

[Schedule Online](#)

2.4 miles

Michell Fullmer, RD



Nutrition

Practicing Since: 2010

View Profile →

Nemours Childrens Hospital, Delaware

 1600 Rockland Road
 Wilmington, DE 19803

(800) 416-4441

[Schedule Online](#)

2.4 miles

Edward Anders Kolb, MD



Hematology/Oncology

View Profile →

Watch Video ▶

Nemours Childrens Hospital, Delaware

 1600 Rockland Road
 Wilmington, DE 19803

(800) 416-4441

2.4 miles

David Spencer Mangum, MD



Hematology/Oncology

Practicing Since: 2019

View Profile →

Nemours Childrens Hospital, Delaware

 1600 Rockland Road
 Wilmington, DE 19803

(800) 416-4441

2.4 miles

Robin E. Miller, MD



Hematology/Oncology

View Profile →

Nemours Childrens Hospital, Delaware

 1600 Rockland Road
 Wilmington, DE 19803

(800) 416-4441

[Schedule Online](#)

2.4 miles

Corinna L. Schultz, MD



Hematology/Oncology

Practicing Since: 2014

View Profile →

Watch Video ▶

Nemours Childrens Hospital, Delaware

 1600 Rockland Road
 Wilmington, DE 19803

(800) 416-4441

[Schedule Online](#)

2.4 miles

EXHIBIT 20

⚠ If you are experiencing a medical emergency, please call 911. Please note: our care team may contact you to discuss switching your appointment to a virtual visit. Additionally, if you have symptoms of COVID-19 or have experienced possible COVID-19 exposure, please contact your provider about a virtual visit. The safety of our patients, their families and our caregivers is our number one priority. Click [here](#) to learn more about our COVID-19 response. **×**

9 providers found



Jamal G. Misleh, MD

ACCEPTING NEW PATIENTS

Specialties

Hematology

Internal Medicine

Medical Oncology

Practice Locations

Phone

Medical Oncology Hematology Consultants

4701 Ogletown Stanton Road, Helen F Graham Cancer Center, Suite 3400, Newark, DE 19713 ([Map](#))

302-366-1200

Make an appointment



Michael W. Lankiewicz, MD

ACCEPTING NEW PATIENTS

Specialties

Hematology

Pathology

Practice Locations

Phone

Transitional Care Practice Special Needs

501 West 14th Tctcr Street, Wilmington Hospital Health Center, Wilmington, DE 19801 ([Map](#))

302-320-6300

Make an appointment



Lydia I. Clements, MD

ACCEPTING NEW PATIENTS

Specialties

Hematology

Internal Medicine

Medical Oncology

Practice Locations

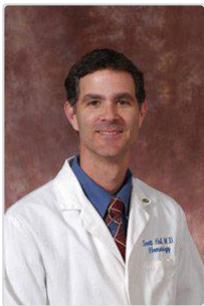
Phone

Medical Oncology Hematology Consultants

4701 Ogletown Stanton Road, Helen F Graham Cancer Center, Suite 3400, Newark, DE 19713 ([Map](#))

302-366-1200

Make an appointment



Scott W. Hall, MD

ACCEPTING NEW PATIENTS

Specialties

Hematology

Practice Locations

Phone

Delaware Clinical & Laboratory Physicians

4701 Ogletown Stanton Road, Suite 4200, Newark, DE 19713 ([Map](#))

302-737-7700

Make an appointment



Dhaval R. Shah, MBBS

ACCEPTING NEW PATIENTS

POWERED BY KYRUUS

**Specialties**

Hematology

Internal Medicine

Medical Oncology

Practice Locations**Phone****Medical Oncology Hematology Consultants**4701 Ogletown Stanton Road, Helen F Graham Cancer Center, Suite 3400, Newark, DE 19713 ([Map](#))

302-366-1200

[Make an appointment](#)

Andrew Himmelstein, MD

ACCEPTING NEW PATIENTS**Specialties**

Hematology

Hospice and Palliative Care

Internal Medicine

Medical Oncology

Practice Locations**Phone****Medical Oncology Hematology Consultants**4701 Ogletown Stanton Road, Helen F Graham Cancer Center, Suite 3400, Newark, DE 19713 ([Map](#))

302-366-1200

[Make an appointment](#)

Frank V. Beardell, MD

ACCEPTING NEW PATIENTS**Specialties**

Hematology

Internal Medicine

Medical Oncology

Practice Locations**Phone**

POWERED BY KYRUUS

Practice Locations

Phone

Delaware Clinical & Laboratory Physicians

4701 Ogletown Stanton Road, Suite 4200, Newark, DE 19713
([Map](#))

302-737-7700

Make an appointment

Evan Lapinsky, MD

ACCEPTING NEW PATIENTS

Specialties

Hematology

Internal Medicine

Medical Oncology

Practice Locations

Phone

Medical Oncology Hematology Consultants

4701 Ogletown Stanton Road, Helen F Graham Cancer
Center, Suite 3400, Newark, DE 19713 ([Map](#))

302-366-1200

Make an appointment

SuJung Park, MD

ACCEPTING NEW PATIENTS

Specialties

Hematology

Internal Medicine

Medical Oncology

Practice Locations

Phone

Medical Oncology Hematology Consultants

4701 Ogletown Stanton Road, Helen F Graham Cancer
Center, Suite 3400, Newark, DE 19713 ([Map](#))

302-366-1200

Make an appointment

EXHIBIT 21



HEALTH



Home / Doctors / Hematologists / Delaware

Delaware Hematologists

Learn more about Hematologists and find the best doctor for you



Specialty: Hematology ×

Filters/Sort ×

1

26 Doctors

Dr. Abeer Alfaraj MD

Hematology

Hematologic Oncology, Myeloproliferative Disorder Hematology-Oncology, Sickle Cell & Other Anemias

640 S State St, Dover, DE, 19901



6-10 Years of Experience

1 Language

Dr. Frank V. Beardell MD ★★★★★ 11 reviews

Hematology

General Hematology

4701 Ogletown Stanton Rd, Newark, DE, 19713

Hospitals: ChristianaCare Hospitals



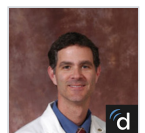
21+ Years of Experience

1 Language

Dr. Scott W. Hall MD ★★★★★ 32 reviews

Hematology

General Hematology



4701 Ogletown Stanton Rd, Newark, DE, 19713

Hospitals: ChristianaCare Hospitals

21+ Years of Experience

1 Language



Dr. Shaun Hanson MD

Hematology

General Hematology

4755 Ogletown Stanton Rd, Newark, DE, 19718

Hospitals: Mercy Hospital St. Louis + 1



3-5 Years of Experience

1 Language

Dr. Santos E. Martin MD

Hematology

General Hematology

4701 Ogletown Stanton Rd, Newark, DE, 19713

Hospitals: ChristianaCare Hospitals



21+ Years of Experience

1 Language

Dr. Robert B. Slease MD ★★★★★ 12 reviews

Hematology

General Hematology



4701 Ogletown Stanton Rd, Newark, DE, 19713

Hospitals: ChristianaCare Hospitals

21+ Years of Experience



Dr. Amy K. Barone MD

Pediatric Hematology & Oncology

General Pediatric Hematology & Oncology

1600 Rockland Rd, Wilmington, DE, 19803



6-10 Years of Experience

1 Language

Dr. Ilene Boudreaux MD ★★★★★ 25 reviews

Pediatric Hematology & Oncology

General Pediatric Hematology & Oncology

3521 Silverside Rd, Wilmington, DE, 19810

Hospitals: ChristianaCare Hospitals



21+ Years of Experience

1 Language

Dr. Emi H. Caywood MD

Pediatric Hematology & Oncology

General Pediatric Hematology & Oncology

1600 Rockland Road, Wilmington, DE, 19803

Hospitals: Jefferson Health-Thomas Jefferson University Hospitals



11-20 Years of Experience

1 Language



Dr. Luis L. David MD ★★★★★ 6 reviews



Pediatric Hematology & Oncology

General Pediatric Hematology & Oncology

204 South Walnut St, Milford, DE, 19953

21+ Years of Experience

1 Language

Dr. Maureen F. Edelson MD



Pediatric Hematology & Oncology

General Pediatric Hematology & Oncology

A.I. Dupont Hospital For Children, Wilmington, DE, 19803

21+ Years of Experience

1 Language

Dr. Christopher N. Frantz MD ★★★★★ 5 reviews



Pediatric Hematology & Oncology

General Pediatric Hematology & Oncology

A.I. Dupont Hospital For Children, Wilmington, DE, 19803

21+ Years of Experience

1 Language



Dr. Edwina C. Granada (Carlos) MD



Pediatric Hematology & Oncology

General Pediatric Hematology & Oncology

9109 Middleford Rd, Seaford, DE, 19973

📌 **21+** Years of Experience

💬 **1** Language

Dr. Renee Gresh DO



Pediatric Hematology & Oncology

General Pediatric Hematology & Oncology

1600 Rockland Rd, Wilmington, DE, 19803

📌 **6-10** Years of Experience

💬 **1** Language

Dr. Gregory C. Griffin MD



Pediatric Hematology & Oncology

General Pediatric Hematology & Oncology

A.I. Dupont Hospital For Children, Wilmington, DE, 19803

📌 **21+** Years of Experience

💬 **1** Language

Dr. Stephanie H. Guarino MD

Pediatric Hematology & Oncology

General Pediatric Hematology & Oncology

1600 Rockland Rd, Wilmington, DE, 19803

Hospitals: ChristianaCare Hospitals



6-10 Years of Experience

1 Language

Dr. Darcy Hamill DO

Pediatric Hematology & Oncology

General Pediatric Hematology & Oncology

1600 Rockland Rd, Wilmington, DE, 19803



6-10 Years of Experience

1 Language

Dr. Mohammad A. Khan MD ★★★★★ 6 reviews

Pediatric Hematology & Oncology

General Pediatric Hematology & Oncology

266 S College Ave, Newark, DE, 19711



21+ Years of Experience

1 Language

Dr. Edward Anders Kolb MD**Pediatric Hematology & Oncology**

General Pediatric Hematology & Oncology

1600 Rockland Road, Wilmington, DE, 19803

Hospitals: Jefferson Health-Thomas Jefferson University Hospitals

11-20 Years of Experience **1** Language**Dr. Suba Krishnan MD****Pediatric Hematology & Oncology**

General Pediatric Hematology & Oncology

A.I. Dupont Hospital For Children, Wilmington, DE, 19803

Hospitals: Jefferson Health-Thomas Jefferson University Hospitals

21+ Years of Experience **1** Language

<

1

2

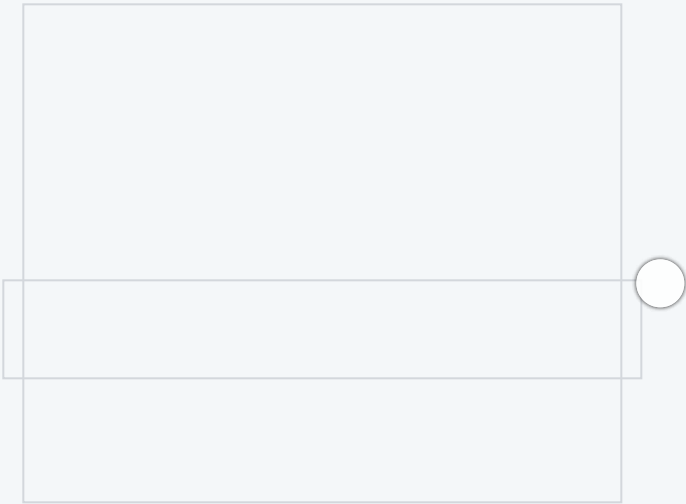
>

PAGE 1 OF 2

Hematologist Near You

Dover, DE

Wilmington, DE



DISCLAIMER AND A NOTE ABOUT YOUR HEALTH »

HOSPITALS

DOCTORS

DENTISTS

SENIOR CARE

NURSING HOMES

ASSISTED LIVING

WELLNESS

DIETS

HEALTH INSURANCE

CONDITIONS



[About](#) [Editorial Guidelines](#) [Contact](#) [Press](#) [Advertise](#)
[Newsletters](#) [Jobs](#) [Site Map](#) [Store](#)



Copyright 2022 © U.S. News & World Report L.P.

[Terms & Conditions](#)/[Privacy Policy](#)/[California Privacy Notice](#)/[California Do Not Sell My Personal Information Request](#)